

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
GREENSBORO DIVISION  
Case No. 1:11-CV-00804

GRETCHEN S. STUART, M.D., et al.,	)	
	)	
Plaintiffs,	)	<b>MOTION OF THE DEFENDANTS</b>
	)	<b>FOR A THIRTY-DAY EXTENSION</b>
- against -	)	<b>OF TIME TO RESPOND TO THE</b>
	)	<b>PLAINTIFFS' MOTION FOR</b>
RALPH C. LOOMIS, M.D., et al.,	)	<b><u>SUMMARY JUDGMENT</u></b>
	)	
Defendants.	)	

Pursuant to Rules 6(b)(1)(A) and 56 of the Federal Rules of Civil Procedure and Local Rules 6.1(a), 7.3(j) and 56.1(d) of the Rules of Practice and Procedure of the United States District Court for the Middle District of North Carolina, the defendants, by their undersigned counsel, respectfully move this Court for the entry of an Order extending by thirty (30) days their time to file and serve their response to the plaintiffs' October 3, 2012 Motion for Summary Judgment. In support of this Motion, the defendants respectfully show unto the Court as follows:

1. The plaintiffs filed their Motion for Summary Judgment, together with a host of affidavits and other supporting papers, on October 3, 2012.
2. The defendants have not previously sought or obtained any extensions of their time to respond to the plaintiffs' Motion for Summary Judgment.
3. Pursuant to Rule 56 of the Federal Rules of Civil Procedure and Local Rule 56.1(d) of the Rules of Practice and Procedure of the United States District Court for the Middle District of North Carolina, the defendants have until Friday, November 2, 2012 to file and serve their response to the plaintiffs' Motion for Summary Judgment.
4. Accordingly, the defendants' original time for responding to the plaintiffs' Motion for Summary Judgment has not yet expired.

5. Since the plaintiffs filed their Motion for Summary Judgment in this action, the undersigned has worked diligently to prepare a thorough, well-researched and considered response that will be helpful to the Court in its determination of the important matters that are at issue in this case; however, during this same period, the undersigned has had to prepare a number of briefs and other papers in other cases pending in other courts.

6. A few examples of these briefs and other legal papers include the following:

A. *State of North Carolina v. Michael Antoine McLaurin*, No. COA12-980 (North Carolina Court of Appeals, filed Mar. 6, 2012) – The undersigned has been working since September 20, 2012 to prepare the State's response to the defendant's Motion for Appropriate Relief (comparable to a federal writ of habeas corpus) in this case in which the defendant was convicted of first-degree murder. That response is due to be filed on Friday, October 26, 2012.

B. *State of North Carolina v. Michael Antoine McLaurin*, No. COA12-980 (North Carolina Court of Appeals, filed Mar. 6, 2012) – During the same period of time, the undersigned has been working, and continues to work now, on the State's Brief in opposition to the defendant-appellant's appeal of his conviction for first-degree murder.

C. *State of North Carolina v. Mason Blake Simpson*, No. COA12-1024 (North Carolina Court of Appeals, filed Mar. 9, 2012) – From September 19, 2012 through October 22, 2012, the undersigned worked on the preparation of the State's Brief in opposition to the defendant-appellant's appeal of his conviction for assault with a deadly weapon with the intent to inflict serious bodily injury. The undersigned completed and filed the State's Brief in this case on Monday of this week (October 22, 2012).

D. *LegalZoom.com, Inc. v. The North Carolina State Bar*, No. 11-CVS-15111 (Superior Court, Wake County, North Carolina filed Sept. 30, 2011 – Removed to the North

Carolina Business Court Nov. 7, 2011) and *The North Carolina State Bar v. Janis Lundquist and Lienguard, Inc.*, No. 11-CVS-7288 (Superior Court, Wake County, North Carolina filed May 12, 2011 – Assigned to the North Carolina Business Court Aug. 31, 2012) – Since mid-October of this year, the undersigned has been working (and continues now to work) to prepare companion motions for judgment on the pleadings, together with memoranda of law in support of those motions, in these two related cases. The undersigned must appear for a status conference before the Honorable James L. Gale, Special Superior Court Judge for Complex Business Cases, on November 8, 2012 concerning the future conduct of these cases and anticipates that Judge Gale will direct counsel for the parties to file their Rule 12(c) cross-motions and simultaneously file their supporting briefs soon thereafter. These cases appear to the undersigned to be cases of first impression under North Carolina law and present the question, *inter alia*, whether Internet-based providers of legal documents are engaging in the unauthorized practice of law in this State in violation of, *inter alia*, Chapter 84 of the North Carolina General Statutes. These cases also present the issues, *inter alia*, whether, by its regulatory and enforcement actions, the State Bar has committed one or more violations of the antitrust laws and/or has violated LegalZoom's and Lienguard's rights to equal protection of the laws. In addition to preparing the State Bar's briefs in support of its Rule 12(c) motions, the undersigned has been working (and continues now to work) on negotiating the terms of and drafting a lengthy and complex Case Management Report and proposed Case Management Order in each of these two cases. These documents must be filed with the Court on Friday, October 26, 2012.

E. *Amanda Thaxton v. The North Carolina State Ethics Commission*, No. 09-OSP-3754 (North Carolina State Personnel Commission, appeal filed Oct. 17, 2012) – The undersigned has been working since mid-October (and continues now to work) to prepare the

State Ethics Commission's memorandum of law in opposition to the petitioner's administrative appeal of the Administrative Law Judge's decision granting summary judgment to the Ethics Commission on the petitioner's claim brought under the North Carolina Whistleblower Act, N.C. Gen. Stat. §§126-84, *et seq.* That memorandum of law is due to be filed on November 8, 2012.

7. As a result of the undersigned's work on the above matters and his work on a host of other cases and legal transactions, the undersigned does not believe that he will be able to complete the defendants' response to the plaintiffs' Motion for Summary Judgment by November 2, 2012 in the manner that it should be prepared, so that it will be of meaningful assistance to the Court and so that it will fully and adequately state the views of the defendants and the North Carolina General Assembly on the important issues presented by this case.

8. On October 24, 2012, the undersigned communicated to all counsel of record in this case his desire to seek this extension of time and the reasons for his request. In addition, the undersigned spoke by telephone to Christopher Brook, Esquire, Legal Director, The American Civil Liberties Union of North Carolina Legal Foundation and lead counsel for all of the plaintiffs herein, and Julie Rikelman, Esquire, Senior Counsel for the Center for Reproductive Rights, concerning this Motion. Counsel for the plaintiffs informed the undersigned that the plaintiffs do not oppose this Motion, provided that any extension of time granted to the defendants will also work to extend by thirty days the plaintiffs' time to file their response to the defendants' October 3, 2012 Motion for Summary Judgment (so that the summary judgment briefing by all parties will remain on the same relative briefing schedule).

9. The defendants file this Motion in good faith and not for any dilatory or other improper reason.

A proposed Order granting the relief requested herein accompanies this Motion.

WHEREFORE, for the reasons more fully set forth above, the defendants respectfully pray that this Court enter an Order extending by thirty (30) days, through and including Monday, December 3, 2012, their time to file and serve their response to the plaintiffs' October 3, 2012 Motion for Summary Judgment; that the Court also extend by thirty (30) days, through and including Monday, December 3, 2012, the plaintiffs' time to file and serve their response to the defendants' October 3, 2012 Motion for Summary Judgment; and that the Court grant the defendants such other and further relief as it may deem just and proper.

Respectfully submitted this 24<sup>th</sup> day of October 2012.

/s/ I. Faison Hicks

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*Attorneys for the Defendants*

## **CERTIFICATE OF SERVICE**

This is to certify that, on the 24<sup>th</sup> day of October 2012, I caused a copy of the foregoing to be electronically filed with the Office of the Clerk of Court of the United States District Court for the Middle District of North Carolina using the CM/ECF system, which will automatically send notification of such filing to the following CM/ECF participants:

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